

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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PROBIOTECH, INC.

Plaintiff,

vs.

Civil Action No.  
5:05-CV-1130 (GTS/DEP)

ALLTECH, INC.,

Defendant.

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APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

HARTER, SECREST LAW FIRM  
1600 Bausch & Lomb Place  
Rochester, New York 14064

PETER H. ABDELLA, ESQ.  
JERAULD E. BRYDGES, ESQ.

FOR DEFENDANT:

HANCOCK, ESTABROOK LAW FIRM  
1500 AXA Tower I  
Syracuse, New York 13221

JOHN G. POWERS, ESQ.  
JAMES E. HUGHES, ESQ.

O'CONNOR, O'CONNOR LAW FIRM  
20 Corporate Woods Boulevard  
Albany, New York 12211

PETER B. JOSLIN, JR.

GLENN T. SUDDABY, U.S. DISTRICT JUDGE

**JUDGMENT DISMISSING ACTION BASED UPON SETTLEMENT**

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Counsel has also advised the Court that no infant or incompetent is a party to this action. Accordingly, pursuant to N.D.N.Y.L.R. 68.2(a), it is hereby

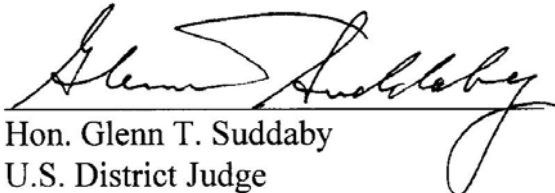
ORDERED, as follows:

1) The above captioned case is hereby **DISMISSED** in its entirety **without prejudice** to re-opening upon the motion of any party within thirty days of the date of the filing of this order upon a showing that the settlement was not consummated;

2) The dismissal of the above captioned case shall become **with prejudice** on the thirty-first day after the date of the filing of this order unless any party moves to re-open this case within thirty days of the date of filing of this order upon a showing that the settlement was not consummated. Upon completion of settlement, the parties are directed to exchange general releases and file a **Stipulation of Discontinuance** with the Court that must include language "that no party hereto is an infant or incompetent" in compliance with N.D.N.Y.L.R. 41.3; and

3) The Clerk shall serve by electronic means copies of this Judgment upon counsel in this matter.

Dated: September 17, 2010  
Syracuse, New York

  
Hon. Glenn T. Suddaby  
U.S. District Judge